



# CBN Obtains Court Order to Freeze Fintechs Bank Accounts

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News Commentary

LEGAL & FINTECH HUB



The Apex bank in Nigeria recently received a court order to freeze the bank accounts of four Fintech companies for One hundred and Eighty (180) days including Rise Vest Technologies Limited, Bamboo Systems Technology Limited, Chaka Technologies Limited, and Trove Technologies Limited.

The argument put forward by CBN counsel was that these companies were in violation of the trading laws and directives of the CBN regarding foreign exchange transactions, put in place to safeguard the international value of the Naira and promote a sound financial system in Nigeria. This paper seeks to highlight the particular directives alleged to have been contravened by these fintech companies as well as the jurisdiction of the CBN to obtain an order freezing the bank accounts of these companies.

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## **LEGAL JUSTIFICATION OF THE FREEZING ORDER SECURED BY CBN**

Being the Principal regulatory body for banks and other financial institutions, the powers of the Central Bank of Nigeria (CBN) are drawn from enacted statutes, mainly the CBN ACT, and the Banks and other Financial Institutions Act. The CBN Act in Section 4, gives the CBN power to “acquire, hold and dispose of movable and immovable property” for the purpose of its functions of ensuring monetary and price stability, promote a sound financial system in Nigeria, maintain external reserves to safeguard the international value of the legal tender currency amongst others and enact laws and directives to the effect. It is upon this provision and the general construction of substantive statutes that the CBN derives its power to secure a court order freezing the accounts of six (6) Fintech companies operating as an online investment platform namely; Rise Vest Technologies Limited, Bamboo Systems Technology Limited, Bamboo Systems Tech. Ltd OPNS, Chaka Technologies Limited, CTL/Business Expenses and Trove Technologies Limited.

The case against the affected fintech firms borders on the contravention of CBN directives referenced TED/FEM/FPC/GEN/01/010 dated June 23rd 2015, TED/FEM/FPC/GEN/O1/012 dated July 1st 2015, BSD/DIR/PUB/LAB/014/001 dated February 5th 2021 and the Exposure Draft of the Framework for Licensing, Regulation and Supervision of the Business of Private Asset Management Companies in Nigeria (The Draft Framework).

The CBN on June 23rd 2015, issued a circular excluding importation of certain goods and services from accessing foreign exchange at the Nigerian Foreign Exchange Market. On the list of goods and services not valid for foreign exchange is "Euro bond/Foreign Currency bond/Share Purchases". As a follow up to the referenced circular, the CBN further stated in the circular of July 1st 2015 that the Bureau De Change (BDC's) licensees and other authorized dealers are only authorized to use cash purchased, and sell dollar cash for the excluded importations and transactions, provided the invoices/demand notes for the payment do not exceed US\$5,000.00(Five Thousand United States Dollars) or its equivalent in other foreign currencies per transaction. One of the allegations levied against the affected fintech firms is that they engaged in transactions of buying and selling foreign stock, Share investment in foreign markets, Foreign Currency bond and other prohibited transactions with foreign exchange from the Nigerian Foreign Exchange Market via several BDC's and other authorized dealers of more than US\$10,000.00(Ten Thousand United States Dollars) in direct contravention of the referenced circulars.

In another letter BSD/DIR/PUB/LAB/014/001 released on the 5th of February 2021, the CBN addressed banks and other financial institutions which stated that dealing in cryptocurrency exchanges are prohibited. The CBN further instructed all banks and other financial institutions to identify individuals or entities who transact in cryptocurrency or operate cryptocurrency exchanges and immediately close the accounts of such persons or entities. The investigation of the CBN on the activities of the affected fintech firms revealed that their platforms were violating Nigeria's trading laws in dealing with cryptocurrency in contravention of the CBN policy. It follows that the Court order freezing the accounts through which they conducted their cryptocurrency activities pending further investigation is founded on the directives given by the CBN in their February 2021 circular.

Another aspect of the CBN's case against the affected fintech companies is hinged on the Draft Framework it exposed to the public for the licensing and regulation of Private Asset Management Companies (PAMC's) in Nigeria. In this draft, the CBN expressed the need for the licensing of private companies desirous of playing complementary roles in the management of non-performing assets in the industry. It defined PAMC's and established certain requirements necessary to be issued with a PAMC license. The affidavit filed in support of the CBN's ex-parte application stated that although Rise Vest Technologies Limited (one of the affected Fintech firms), was incorporated as a technology and business consultancy firm, the information on their website indicated that it is an asset management company and had been operating as such without a PAMC license.

In conclusion, the CBN launched this investigation in a bid to ensure complete compliance with its trade policies. The affected companies however, have reacted to this order and assure their users that this action by the CBN does not affect their investments, and their funds are being safely managed. The companies, particularly Rise Vest Technologies Limited, Bamboo Systems Technology Limited and Bamboo Systems Tech. Ltd have also stated that they will work with the appropriate regulators to ensure that all issues raised by the CBN in this case are properly addressed.

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